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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,600	12/10/2001	John Bolland Reast	02004.053	4226

7590 08/25/2004
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EXAMINER

SPISICH, GEORGE D

ART UNIT PAPER NUMBER

3616

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/009,600

Applicant(s)

REAST, JOHN BOLLAND

Examiner

George D. Spisich

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on February 23, 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

The Finality of Office Action mailed June 3, 2004 has been removed due to the new grounds of rejection in this action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 6 and 7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear from the specification how the leaf spring arms can be converted from pivoting arms to fixed arms during roll motion of the vehicle. Examiner understands the arms to resist motion during roll but does not understand how the arms could be considered fixed during roll. Nor does the Examiner understand how one arm allows for the

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opposite rotation of the opposite arm during a rolling motion to stiffen the suspension arms.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over McJunkin, Jr. (USPN 3,711,079 cited on Form 892 in action mailed June 3, 2004) in view of Wilson (USPN 5,938,221).

McJunkin, Jr. discloses an suspension anti-roll stabilization system comprising an axle (25) mounted on leaf spring suspension arms (12 and 13) of an associated vehicle on respective opposed sides of the longitudinal axis of the vehicle with the axle being located at least partially with respect to the frame or chassis of the vehicle by the leaf spring suspension arms which are located on respective opposed sides of the longitudinal vehicle axis and of which each has one end mounted pivotally to the vehicle frame or chassis and an anti-roll means (22, 23, 33) is connected rigidly between the pair of longitudinal leaf spring suspension arms. The anti-roll means (22,23,33) is connected at or adjacent the points at which the one end of each arm is pivotally attached to the frame of

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chassis of the associated vehicle. The anti-roll means comprises an anti-roll bar or tube. This anti-roll means extends transversely of the longitudinal axis of the associated vehicle is arranged to add bending stiffness to the longitudinal suspension arms close to the pivot points during vehicle roll.

With respect to claims 6 and 7, this arrangement is structurally and operationally the same as the Applicant's invention and therefore meets the understood operation in claims 6 and 7. More specifically, the arrangement of McJunkin, Jr. provides for the arms to act as beams pivotally mounted at their one ends to beams which are fixed at those one ends during roll motion of the vehicle. With respect to claim 7, this arrangement also "allows for" the associated pivot points to rotate in opposite directions during vehicle roll while rotating in the same direction during normal ride. There is no feature that would disallow for the opposite movement of the pivot points so therefore, the arrangement "allows" the opposite rotational movement.

Regarding claim 8, the stabilizer bar is "locatable" at various points. It has been held that the recitation that an element is "capable of" performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

However, McJunkin, Jr. does not disclose at least a pair of air bags mounted upon the axle via the leaf springs.

Wilson discloses a leaf spring suspension further comprising air bags mounted on the axle via the leaf spring suspension arms to aid and improve the damping characteristics of the suspension arrangement.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the leaf spring suspension of McJunkin, Jr. by providing at least a pair of air bags mounted to the axle via leaf springs as taught by Wilson for improving the damping characteristics and performance of the suspension.

Response to Arguments

Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Corner et al. (USPN 4,342,469).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George D. Spisich whose telephone number is (703) 305-6495. The examiner can normally be reached on Monday to Friday 9:30-7:00 except alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (703) 308-2089. The fax

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phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gds
August 19, 2004

gds

George Spisich
George Spisich 8/19/04

Ruthilan
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PATENT EXAMINER
8/19/04